

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

LAWRENCE AMMONS,

Defendant.

No. CR 06-216 CW

ORDER DENYING
DEFENDANT'S MOTION
TO SUPPRESS
EVIDENCE

Defendant Lawrence Ammons moves to suppress the fruits of his February 4, 2006 arrest and search of his person. The government opposes the motion. Having considered the papers filed by the parties, the Court denies the motion to suppress.

Defendant relies upon Florida v. J.L., 529 U.S. 266, 268 (2000), where the Supreme Court held that "an anonymous tip that a person is carrying a gun is, without more," not sufficient to justify a stop under Terry v. Ohio, 392 U.S. 1, 21 (1968). Here, however, the Court finds that the anonymous tip on which the police relied did possess the "moderate indicia of reliability" needed to justify a Terry stop. Unlike in J.L., the informant explained that he or she knew about the gun because Defendant was allegedly waving

1 it around. Cf. J.L., 529 U.S. at 271 (noting that informant
2 "neither explained how he knew about the gun nor supplied any basis
3 for believing he had inside information about J.L."). In addition,
4 the government has submitted a sworn declaration of Officer Raymond
5 Thomas, one of the officers who reported to the scene, who states
6 that he could smell alcohol on Defendant's breath, and his eyes
7 appeared bloodshot and watery. Officer Thomas' observations
8 verified one of the circumstances predicted by the anonymous
9 caller, that Defendant seemed to be drunk.

10 Therefore, Defendant's motion to suppress the fruits of the
11 February 4, 2006 arrest and pat-down search is DENIED (Docket No.
12 7).

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14 IT IS SO ORDERED.

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17 Dated: 8/24/06



CLAUDIA WILKEN
United States District Judge